THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 22323 of 2006

Dated: 13.03.2007

Between:

Musunuri Audilakshmi.

..... PETITIONER

AND

Southern Power Distribution Company of A.P. Ltd.,
Rep. by its Chief General Manager (Expenditure),
Tirupathi, Chittoor District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 22323 of 2006

Order:

Questioning the orders dated 14.07.2006, passed by the 3rd respondent-Assistant Accounts Officer, wherein he rejected the claim of the petitioner for providing compassionate appointment and sanction of family pension on the ground that she has not produced legal heir and no objection certificates from the revenue authorities, the petitioner filed the present writ petition.

The petitioner states that she is the legally wedded wife of Musunuri Venkateswara Rao, who died in harness on 23.12.2005 while working as Senior Assistant in the respondents-APSPDCL. The case of the petitioner is that after the death of his first wife, Musunuri Venkateswara Rao married her as his second wife and incorporated her name as his nominee in all his service registers. Since her name was incorporated as nominee in the service registers of her late husband, she is entitled to the death benefits of her late husband. So, after the death of her husband, she made a representation, dated 26.06.2006, to the respondents-APSPDCL for providing compassionate appointment and for sanction of family pension. But, the 3rd respondent, without looking into the same, issued the impugned proceedings directing her to produce the legal heir and no objection certificates from the revenue authorities concerned, which is illegal and arbitrary. Hence, she filed the present writ petition.

The writ petition was admitted by order of this Court dated

30.10.2006. Subsequently, the petitioner filed W.P.M.P. No. 34768 of 2006 seeking to implead the children of first wife of her late husband as party respondent Nos.5 to 7 to this writ petition, and the same is ordered by this Court today.

Sri Ravi Shankar Jandhyala, learned counsel appearing on behalf of respondent Nos.5 and 7 filed counter affidavit. It is stated in the counter affidavit that respondent Nos.5 to 7 are the children of the first wife of the deceased and they are also entitled to his death benefits. It is further stated that after the death of their father the petitioner filed a representation seeking his retrial benefits and compassionate appointment etc., but the 3rd respondent rejected the same directing the petitioner to furnish legal heir certificate and no objection certificate from the revenue authorities concerned and the petitioner, without furnishing sufficient information to the revenue authorities for issuing legal heir certificate and no objection certificate, approached this Court and filed the present writ petition to avoid their share in the retrial benefits of their father.

The 3rd respondent filed his counter affidavit *inter alia* stating that for sanction of family pension, gratuity and commutation of pension, legal heir and no objection certificates from the revenue authorities are necessary to be produced along with the death certificate. It is further stated that the children of the first wife of the deceased issued a legal notice stating that as per the document dated 10.06.2005 executed by their late father all of them including the petitioner are entitled to his retiral benefits, and as the petitioner failed to produce the legal heir and no objection certificates from the revenue authorities, the impugned order was issued directing the petitioner to produce the said certificates from the revenue authorities to avoid litigation from the family members of the first wife of the deceased and no interference is called for therewith.

Heard the learned counsel for the petitioner, learned Standing Counsel for the respondent-APSPDCL, and the learned counsel for respondent Nos.5 and 7.

Learned counsel for the petitioner submits that respondent Nos.5 to 7 are not entitled for the family pension, as they are already married and leading their family life separately. He further submits that when once the deceased, after the death of his first wife, nominated the petitioner as his wife in the service registers, the petitioner is entitled to the family pension and the 3rd respondent cannot withhold the family pension amount on the ground that she has not produced legal heir and no objection certificates from the revenue authorities. Learned counsel appearing on behalf of the unofficial respondents also did not dispute the said fact.

However, after hearing at length, both the counsel agreed for disposal of the writ petition with a direction to the respondents to settle the family pension in favour of the petitioner.

Having regard to the facts and circumstances of the case, and in view of the agreed stand taken by both the counsel, without going into the merits of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

The respondents-APSPDCL are directed to settle the family pension in favour of the petitioner keeping in view the nomination made by her late husband. Insofar as the other reliefs i.e., for providing compassionate appointment and other benefits are concerned, the petitioner is at liberty to approach the respondents-APSPDCL after obtaining necessary legal heir certificate and no objection certificate from the revenue authorities concerned.

Accordingly, the writ petition is disposed of. No costs.

_____

N.V. RAMANA, J.

Date: 13.03.2007
Nsr